



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 27 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tom Lund, Branch Manager
U.S. Mineral Products Company (d/b/a Isolatek International)
701 North Broadway Street
Huntington, Indiana 46750

Re: Notice of Violation
U.S. Mineral Products Company (d/b/a Isolatek International)
Huntington, Indiana

Dear Mr. Lund:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to U.S. Mineral Products Company (d/b/a Isolatek International) (Isolatek or you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated the Indiana State Implementation Plan (SIP) at your Huntington, Indiana facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings in the NOV, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Daniel Schaufelberger. You may call him at (312) 886-6814 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,



George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Phil Perry, Indiana Department of Environmental Management
Anthony J. Reitano, Herold Law

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

U.S. Mineral Products Company
(d/b/a Isolatek International)
Huntington, Indiana

NOTICE OF VIOLATION

Proceedings Pursuant to
Section 113(a)(1) of the
42 U.S.C. § 7413(a)(1)

EPA-5-13-IN-06

NOTICE VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation (NOV or Notice) to U.S. Mineral Products Company (d/b/a Isolatek International) (Isolatek), for violations of the Clean Air Act (the Act), 42 U.S.C. §§ 7401 *et seq.*, at its mineral wool production facility at 701 North Broadway Street, Huntington, Indiana.

This Notice is issued pursuant to Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1). The authority to issue this Notice has been delegated to the Regional Administrator of EPA Region 5 and redelegated to the Director, Air and Radiation Division.

Statutory and Regulatory Background

1. The Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its populations. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

Prevention of Significant Deterioration and Indiana SIP

2. When the Act was passed in 1970, Congress exempted existing facilities, such as the mineral wool plant that is the subject of this Notice, from many of its requirements. However, Congress also made it quite clear that this exemption would not last forever. As the United States Court of Appeals for the D.C. Circuit explained, "[t]he statutory scheme intends to 'grandfather' existing industries; but...this is not to constitute a perpetual immunity from all standards under the PSD program." *Alabama Power v. Costle*, 636 F.2d 323, 400 (D.C. Cir. 1979). Rather, when a grandfathered facility intends to perform modifications at the facility that may significantly increase emissions, the Act requires the company to install modern pollution control devices.
3. The Prevention of Significant Deterioration (PSD) provisions of Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, and their implementing regulations at 40 C.F.R. § 52.21 (collectively "the PSD Program"), establish specific pre-construction requirements

applicable to the construction and modification of “major emitting facilities” located in areas designated as either attainment or unclassifiable for purposes of meeting the National Ambient Air Quality Standards.

4. The PSD Program prohibits, among other things, a “major emitting facility” from constructing a “major modification” unless it has obtained a PSD permit that applies “Best Available Control Technology” (BACT) to control emissions from the proposed modified emissions unit, and conducts an analysis to determine the air quality impacts of the modification. Sections 165(a) and 169(2)(C) of the Act, 42 U.S.C. §§ 7475(a) and 7479(2)(C), and 40 C.F.R. § 52.21(i).
5. Pursuant to Section 169 of the Act, 42 U.S.C. § 7479(1), a “major emitting facility” is defined to include, among others, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any regulated PSD pollutant.
6. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require each state to adopt a state implementation plan (SIP) containing regulations implementing the PSD Program.
7. A state may comply with Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, by having its own PSD regulations approved by EPA as part of its SIP, provided that the state PSD regulations are at least as stringent as those set forth at 40 C.F.R. § 51.166.
8. Pursuant to 40 C.F.R. § 52.21(a), if a state does not have PSD regulations that EPA has approved and incorporated into its SIP, EPA may incorporate the federal PSD regulations set forth at 40 C.F.R. § 52.21 into the SIP.
9. Pursuant to 40 C.F.R. § 52.23, any person failing to comply with an approved regulatory provision of a SIP is subject to an enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.
10. On August 7, 1980, EPA disapproved Indiana’s proposed PSD program, and incorporated by reference the PSD regulations of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP. 45 Fed. Reg. 52676, 52741. On September 30, 1980, EPA delegated to the Indiana Department of Environmental Management (IDEM) certain authorities of the federal PSD program. 46 Fed. Reg. 9580, 9583. On March 3, 2003, EPA conditionally approved Indiana’s PSD regulations at 326 Indiana Administrative Code (IAC) 2-2. 68 Fed. Reg. 9892 (effective April 2, 2003). On May 20, 2004, EPA provided final approval of 326 IAC Rule 2-2 into the Indiana SIP. 69 Fed. Reg. 29071 (effective July 19, 2004). On June 18, 2007, EPA partially approved revisions to 326 IAC 2-2 related to EPA’s New Source Review (NSR) Reform regulations. 72 Fed. Reg. 33395 (effective July 18, 2007).
11. The PSD regulations included as part of Indiana’s federally approved SIP at the time of the project identified in Paragraph 27 are the regulations that are applicable and federally enforceable for that project.

12. 326 IAC 2-1-3(a) of the Indiana SIP prohibits any person from commencing construction or modification of any air pollution source without first applying for and obtaining a construction permit from the commissioner of IDEM.
13. 326 IAC 2-1-3(c) requires any person proposing the construction or modification of a major stationary PSD source or major PSD modification, which is or which will be located in an attainment area or unclassified area, to comply with the requirements of 326 IAC 2-2 of the Indiana SIP.
14. 326 IAC 2-2-2 of the Indiana SIP states that new or modified major stationary sources or major modifications, constructed in an area designated as attainment, are subject to 326 IAC 2-2, which contains the PSD provisions of the Indiana SIP.
15. 326 IAC 2-2-1(ff)(2) of the Indiana SIP defines a “major stationary source” in an attainment area as any stationary source with the potential to emit 250 tons per year or more of a regulated NSR pollutant.
16. 326 IAC 2-2-1(dd) of the Indiana SIP defines a “major modification” as any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase and a significant net emission increase of a regulated NSR pollutant from the major stationary source.
17. 326 IAC 2-2-1(ii) of the Indiana SIP defines “net emissions increase” as the amount by which the sum of the increase in emissions from a physical change or change in the method of operation and any other contemporaneous increases or decreases in emissions exceeds zero.
18. In reference to sulfur dioxide (SO₂), 326 IAC 2-2-1(ww)(1)(C) of the Indiana SIP defines “significant” with regard to a net emissions increase as a rate of emissions that would equal or exceed 40 tons per year.
19. 326 IAC 2-2-3(3) of the Indiana SIP requires that owners or operators making a major modification apply BACT for each regulated NSR pollutant for which the modification would result in a significant net emissions increase.
20. 326 IAC 2-2-1(i) of the Indiana SIP defines “BACT” as an emissions limitation based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major modification while taking into account energy, environmental, and economic impacts and other costs.
21. 326 IAC 2-2-5 of the Indiana SIP requires that owners or operators of a proposed major modification demonstrate that allowable emission increases, in conjunction with all other applicable emission increases or reductions, will not cause or contribute to air pollution in violation of any ambient air quality standard or applicable maximum allowable increase over the baseline concentration in any area.

Isolatek's Facility

22. Isolatek is a corporation authorized to do business in Indiana.
23. Isolatek is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
24. At all times relevant to this Notice, Isolatek owned and operated emission units at its mineral wool production facility at 701 North Broadway Street, Huntington, Huntington County, Indiana ("Huntington plant").
25. Isolatek's Huntington plant is a "major stationary source," as that term is defined in the Indiana SIP at 326 IAC 2-3-1(ff)(2), in that it emits, or has the potential to emit several regulated NSR pollutants in excess of 250 tons per year.
26. Isolatek's Huntington plant is located in Huntington County Indiana, which at all times relevant to this Notice was classified as attainment for SO₂.
27. In December 2007, Isolatek's contractor, Air Analysis, Inc., performed an engineering study of air emissions at the cupola baghouse stack and downdraft ducts at the Huntington plant. Air Analysis, Inc. reported an SO₂ emission rate of 162 pounds per hour while the cupolas were operating at a total melt rate of 7.5 tons per hour. The resulting emission factor is 21.6 pounds of SO₂ per ton of melt (lbs/ton).
28. In November 2011, Isolatek submitted a construction permit application request (Application) to IDEM for the construction of two natural gas-fired mineral wool melters, EU-1A and EU-2A, at the Huntington plant. In the Application's calculations of the project's potential to emit SO₂, Isolatek used an emission factor of 7.33 lbs/ton (based on an AP-42 factor) rather than the 21.6 lbs/ton emission factor (based on the December 2007 testing) for SO₂ at the Huntington plant. In the Application, Isolatek accepted federally enforceable limitations so that it would not exceed the SO₂ significant threshold for PSD.
29. In the 2011 Application, Isolatek failed to submit facility specific SO₂ information for its emissions calculations and failed to apply for a PSD permit.
30. In 2012, Isolatek initiated physical changes subject to the PSD regulations at the Huntington plant including construction of two natural gas fired mineral wool melters at the Huntington plant. Isolatek failed to obtain the required PSD permit, or to undergo PSD pre-construction review for these physical changes.

Violations

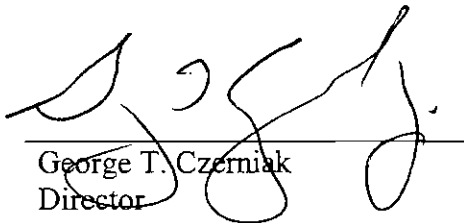
Violations of PSD

31. The project described in Paragraph 30 will cause a "significant net emissions increase" of SO₂ as defined in 326 IAC 2-2-1(ww)(1)(C).
32. The project described in Paragraph 30 constitutes a "major modification," as that term is defined at 326 IAC 2-2-1(dd).
33. Isolatek failed to apply for and/or obtain a PSD permit prior to beginning actual construction of the activities described in Paragraph 30, and failed to install and operate BACT for SO₂ as required by 326 IAC 2-1-3(c).
34. Therefore, Isolatek violated and continues to violate the PSD requirements found at Section 165 of Act, 42 U.S.C. § 7475, and the Indiana SIP, for constructing the major modification, as identified at Paragraph 30, to an existing major source at its Huntington plant, without applying for or obtaining the PSD permit and operating the modified facility without installing the BACT or going through PSD review, and installing appropriate emissions control equipment in accordance with a BACT analysis.

Enforcement Authority

35. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a notice of violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the applicable SIP, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

2/27/13
Date


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice of Violation, No. **EPA-5-11-06** by Certified Mail, Return Receipt Requested, to:

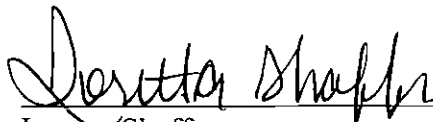
Tom Lund, Branch Manager
U.S. Mineral Products Company (d/b/a Isolatek International)
701 North Broadway Street
Huntington, Indiana 46750

I also certify that I sent copies of the Notice of Violation by first class mail to:

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue, Room IGCN 1003
Indianapolis, Indiana 46204-2251

Anthony J. Reitano, Esq.
Herold Law, P.A.
25 Independence Boulevard
Warren, New Jersey 07059

on the 28 day of Feb, 2013.



Loretta Shaffer
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7674 1057